

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1836**

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**Introduced by Assembly Member Furutani**

February 12, 2010

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~~An act to amend Section 6390 of the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Sections 17041 and 17062 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1836, as amended, Furutani. ~~Sales tax: exemption: rentals.~~  
*Personal income tax: rates.*

*The Personal Income Tax Law imposes a tax upon taxable income at various rates depending upon the amount of that income, and also imposes an alternative minimum tax based upon specified tax preference items.*

*This bill would declare that it is the intent of the Legislature to reinstate income tax brackets for the highest income earners to address the state's budget problems.*

*This bill would, for any taxable year beginning on or after January 1, 2011, and before January 1, 2016, increase the tax rate applicable to taxable income over specified amounts to 10% and 11%, and increase the alternative minimum tax rate to 8.5%.*

*This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

*This bill would take effect immediately as a tax levy.*

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law exempts from the computation of the amount of the sales tax the rentals payable under a lease of tangible personal property, under specified conditions.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) For taxable years beginning on and after January 1, 1991,*  
4     *and ending on or before January 1, 1996, the Legislature and*  
5     *Governor Pete Wilson addressed the budget deficits during that*  
6     *period, in part, by slightly increasing the personal income tax rates*  
7     *applied to the state's highest income earners. Governor Wilson*  
8     *enacted a temporary increase in personal income tax rates during*  
9     *a time of severe recession in California, which was the last time*  
10    *California experienced fiscal distress until now.*

11    *(b) The restoration of the higher personal income tax rates,*  
12    *previously imposed for the period from January 1, 1991, to January*  
13    *1, 1996, for the state's highest income earners would address the*  
14    *state's structural budget problems without adverse economic*  
15    *impact and to protect education, health, and public safety funding*  
16    *for Californians.*

17    *(c) In order to protect education funding and vital health and*  
18    *safety services for all Californians, it is the intent of the*  
19    *Legislature, for the taxable years beginning on or after January*  
20    *1, 2011, and before January 1, 2016, to reinstate income tax*  
21    *brackets for the highest income earners. An income tax rate of 10*  
22    *percent will be reinstated for the portion of the taxable income of*  
23    *an individual that exceeds two hundred fifty thousand dollars*  
24    *(\$250,000) and for that portion of taxable income of married*  
25    *taxpayers filing jointly that exceeds five hundred thousand dollars*

(*\$500,000*). *An income tax rate of 11 percent will be reinstated for the portion of the taxable income of an individual that exceeds four hundred thousand dollars (\$400,000) and for that portion of the taxable income of married persons filing jointly that exceeds eight hundred thousand dollars (\$800,000). While similar to the tax brackets imposed by Governor Wilson in the 1990s, the tax brackets temporarily established by this legislation are less restrictive.*

*SEC. 2. Section 17041 of the Revenue and Taxation Code is amended to read:*

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$3,650.....	1% of the taxable income
Over \$3,650 but not	
over \$8,650.....	\$36.50 plus 2% of the excess
	over \$3,650
Over \$8,650 but not	
over \$13,650.....	\$136.50 plus 4% of the excess
	over \$8,650
Over \$13,650 but not	
over \$18,950.....	\$336.50 plus 6% of the excess
	over \$13,650
Over \$18,950 but not	
over \$23,950.....	\$654.50 plus 8% of the excess
	over \$18,950
Over \$23,950.....	\$1,054.50 plus 9.3% of the excess
	over \$23,950

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be

1 increased by adding 0.25 percent to each percentage. This  
2 subparagraph shall become operative only if the Director of Finance  
3 does not provide notification to the Joint Legislative Budget  
4 Committee on or before April 1, 2009, pursuant to Section 99030  
5 of the Government Code. This subparagraph shall cease to be  
6 operative for taxable years beginning on or after January 1, 2011,  
7 unless the Director of Finance makes the notification pursuant to  
8 Section 99040 of the Government Code, in which case this  
9 subparagraph shall cease to be operative for taxable years beginning  
10 on or after January 1, 2013.

11 (B) For taxable years beginning on or after January 1, 2009,  
12 and before January 1, 2011, or January 1, 2013, as applicable, the  
13 percentages specified in the table in paragraph (1) shall be  
14 increased by adding 0.125 percent to each percentage. This  
15 subparagraph shall become operative only if the Director of Finance  
16 provides notification to the Joint Legislative Budget Committee  
17 on or before April 1, 2009, pursuant to Section 99030 of the  
18 Government Code. This subparagraph shall cease to be operative  
19 for taxable years beginning on or after January 1, 2011, unless the  
20 Director of Finance makes the notification pursuant to Section  
21 99040 of the Government Code, in which case this subparagraph  
22 shall cease to be operative for taxable years beginning on or after  
23 January 1, 2013.

24 (3) (A) *For any taxable year beginning on or after January 1,*  
25 *2011, and before January 1, 2016, the income tax brackets and*  
26 *rates set forth in paragraph (1) shall be modified each year by the*  
27 *following:*

28 (i) *For that portion of taxable income that is over two hundred*  
29 *fifty thousand dollars (\$250,000) but not over four hundred*  
30 *thousand dollars (\$400,000) the tax rate is 10 percent of the excess*  
31 *over two hundred fifty thousand dollars (\$250,000).*

32 (ii) *For that portion of taxable income that is over four hundred*  
33 *thousand dollars (\$400,000), the rate is 11 percent of the excess*  
34 *over four hundred thousand dollars (\$400,000).*

35 (B) *The income tax brackets specified in this paragraph shall*  
36 *be recomputed, as otherwise provided in subdivision (h), only for*  
37 *taxable years beginning on and after January 1, 2012.*

38 (b) (1) There shall be imposed for each taxable year upon the  
39 taxable income of every nonresident or part-year resident, except

the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$7,300.....	1% of the taxable income
Over \$7,300 but not	
over \$17,300.....	\$73 plus 2% of the excess
	over \$7,300
Over \$17,300 but not	
over \$22,300.....	\$273 plus 4% of the excess
	over \$17,300
Over \$22,300 but not	
over \$27,600.....	\$473 plus 6% of the excess
	over \$22,300
Over \$27,600 but not	
over \$32,600.....	\$791 plus 8% of the excess
	over \$27,600
Over \$32,600.....	\$1,191 plus 9.3% of the excess
	over \$32,600

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(3) (A) *For any taxable year beginning on or after January 1, 2011, and before January 1, 2016, the income tax brackets and rates set forth in paragraph (1) shall be modified each year by the following:*

*(i) For that portion of taxable income that is over four hundred thousand dollars (\$400,000) but not over six hundred thousand dollars (\$600,000), the tax rate is 10 percent of the excess over four hundred thousand dollars (\$400,000).*

*(ii) For that portion of taxable income that is over six hundred thousand dollars (\$600,000), the tax rate is 11 percent of the excess over six hundred thousand dollars (\$600,000).*

(B) *The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 2012.*

1 (d) (1) There shall be imposed for each taxable year upon the  
2 taxable income of every nonresident or part-year resident when  
3 the nonresident or part-year resident is the head of a household,  
4 as defined in Section 17042, a tax as calculated in paragraph (2).

5 (2) The tax imposed under paragraph (1) shall be calculated by  
6 multiplying the “taxable income of a nonresident or part-year  
7 resident,” as defined in subdivision (i), by a rate (expressed as a  
8 percentage) equal to the tax computed under subdivision (c) on  
9 the entire taxable income of the nonresident or part-year resident  
10 as if the nonresident or part-year resident were a resident of this  
11 state for the taxable year and as if the nonresident or part-year  
12 resident were a resident of this state for all prior taxable years for  
13 any carryover items, deferred income, suspended losses, or  
14 suspended deductions, divided by the amount of that income.

15 (e) There shall be imposed for each taxable year upon the taxable  
16 income of every estate, trust, or common trust fund taxes equal to  
17 the amount computed under subdivision (a) for an individual  
18 having the same amount of taxable income.

19 (f) The tax imposed by this part is not a surtax.

20 (g) (1) Section 1(g) of the Internal Revenue Code, relating to  
21 certain unearned income of minor children taxed as if the parent’s  
22 income, shall apply, except as otherwise provided.

23 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,  
24 relating to income included on parent’s return, is modified, for  
25 purposes of this part, by substituting “1 percent” for “15 percent.”

26 (h) For each taxable year beginning on or after January 1, 1988,  
27 the Franchise Tax Board shall recompute the income tax brackets  
28 prescribed in subdivisions (a) and (c). That computation shall be  
29 made as follows:

30 (1) The ~~California~~ Department of Industrial Relations shall  
31 transmit annually to the Franchise Tax Board the percentage change  
32 in the California Consumer Price Index for all items from June of  
33 the prior calendar year to June of the current calendar year, no  
34 later than August 1 of the current calendar year.

35 (2) The Franchise Tax Board shall do both of the following:

36 (A) Compute an inflation adjustment factor by adding 100  
37 percent to the percentage change figure that is furnished pursuant  
38 to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar (\$1).

(i) (1) For purposes of this part, the term “taxable income of a nonresident or part-year resident” includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident.

(3) For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

(j) *Notwithstanding any other law to the contrary, the amount of tax imposed by this section for the taxable year upon the taxable income of a taxpayer shall be reduced by an amount equal to the tax imposed by Section 17043 upon that same taxable income.*

SEC. 3. *Section 17062 of the Revenue and Taxation Code is amended to read:*



1 17062. (a) In addition to the other taxes imposed by this part,  
2 there is hereby imposed for each taxable year, a tax equal to the  
3 excess, if any, of—

4 (1) The tentative minimum tax for the taxable year, over

5 (2) The regular tax for the taxable year.

6 (b) For purposes of this chapter, each of the following shall  
7 apply:

8 (1) The tentative minimum tax shall be computed in accordance  
9 with Sections 55 to 59, inclusive, of the Internal Revenue Code,  
10 except as otherwise provided in this part.

11 (2) The regular tax shall be the amount of tax imposed by  
12 Section 17041 or 17048, before reduction for any credits against  
13 the tax, less any amount imposed under paragraph (1) of  
14 subdivision (d) and paragraph (1) of subdivision (e) of Section  
15 17560.

16 (3) (A) The provisions of Section 55(b)(1) of the Internal  
17 Revenue Code shall be modified to provide that the tentative  
18 minimum tax for the taxable year shall be equal to the following  
19 percent of so much of the alternative minimum taxable income for  
20 the taxable year as exceeds the exemption amount, before reduction  
21 for any credits against the tax:

22 (i) For any taxable year beginning on or after January 1, 1991,  
23 and before January 1, 1996, 8.5 percent.

24 (ii) For any taxable year beginning on or after January 1, 1996,  
25 and before January 1, 2009, 7 percent.

26 (iii) For taxable years beginning on and after January 1, 2009,  
27 and before January 1, 2011, or January 1, 2013, as applicable, 7.25  
28 percent. This clause shall become operative only if the Director  
29 of Finance does not provide notification to the Joint Legislative  
30 Budget Committee on or before April 1, 2009, pursuant to Section  
31 99030 of the Government Code. This clause shall cease to be  
32 operative for taxable years beginning on or after January 1, 2011,  
33 unless the Director of Finance makes the notification pursuant to  
34 Section 99040 of the Government Code, in which case this clause  
35 shall cease to be operative for taxable years beginning on or after  
36 January 1, 2013.

37 (iv) For taxable years beginning on and after January 1, 2009,  
38 and before January 1, 2011, or January 1, 2013, as applicable,  
39 7.125 percent. This clause shall become operative only if the  
40 Director of Finance provides notification to the Joint Legislative

Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This clause shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this clause shall cease to be operative for taxable years beginning on or after January 1, 2013.

(v) For any taxable year beginning on or after January 1, 2011, or January 1, 2013, as applicable, for which clause (iii) or (iv) ceases to be operative, ~~7 percent~~ *and before January 1, 2016, 8.5 percent.*

(vi) *For any taxable year beginning on or after January 1, 2016, 7 percent.*

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term “alternative minimum taxable income of a nonresident or part-year resident” includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing “alternative minimum taxable income of a nonresident or part-year resident,” any carryover items, deferred income, suspended losses, or suspended deductions shall

1 only be allowable to the extent that the carryover item, suspended  
2 loss, or suspended deduction was derived from sources within this  
3 state.

4 (4) The provisions of Section 55(b)(2) of the Internal Revenue  
5 Code, relating to alternative minimum taxable income, shall be  
6 modified to provide that alternative minimum taxable income shall  
7 not include the income, adjustments, and items of tax preference  
8 attributable to any trade or business of a qualified taxpayer.

9 (A) For purposes of this paragraph, “qualified taxpayer” means  
10 a taxpayer who meets both of the following:

11 (i) Is the owner of, or has an ownership interest in, a trade or  
12 business.

13 (ii) Has aggregate gross receipts, less returns and allowances,  
14 of less than one million dollars (\$1,000,000) during the taxable  
15 year from all trades or businesses of which the taxpayer is the  
16 owner or has an ownership interest, in the amount of that taxpayer’s  
17 proportionate interest in each trade or business.

18 (B) For purposes of this paragraph, “aggregate gross receipts,  
19 less returns and allowances” means the sum of the gross receipts  
20 of the trades or businesses that the taxpayer owns and the  
21 proportionate interest of the gross receipts of the trades or  
22 businesses that the taxpayer owns and of pass-through entities in  
23 which the taxpayer holds an interest.

24 (C) For purposes of this paragraph, “gross receipts, less returns  
25 and allowances” means the sum of the gross receipts from the  
26 production of business income, as defined in subdivision (a) of  
27 Section 25120, and the gross receipts from the production of  
28 nonbusiness income, as defined in subdivision (d) of Section  
29 25120.

30 (D) For purposes of this paragraph, “proportionate interest”  
31 means:

32 (i) In the case of a pass-through entity that reports a profit for  
33 the taxable year, the taxpayer’s profit interest in the entity at the  
34 end of the taxpayer’s taxable year.

35 (ii) In the case of a pass-through entity that reports a loss for  
36 the taxable year, the taxpayer’s loss interest in the entity at the end  
37 of the taxpayer’s taxable year.

38 (iii) In the case of a pass-through entity that is sold or liquidates  
39 during the taxable year, the taxpayer’s capital account interest in  
40 the entity at the time of the sale or liquidation.

1 (E) (i) For purposes of this paragraph, “proportionate interest”  
2 includes an interest in a pass-through entity.

3 (ii) For purposes of this paragraph, “pass-through entity” means  
4 any of the following:

5 (I) A partnership, as defined by Section 17008.

6 (II) An “S corporation,” as provided in Chapter 4.5  
7 (commencing with Section 23800) of Part 11.

8 (III) A regulated investment company, as provided in Section  
9 24871.

10 (IV) A real estate investment trust, as provided in Section 24872.

11 (V) A real estate mortgage investment conduit, as provided in  
12 Section 24874.

13 (5) For taxable years beginning on or after January 1, 1998,  
14 Section 55(d)(1) of the Internal Revenue Code, relating to  
15 exemption amount for taxpayers other than corporations is  
16 modified, for purposes of this part, to provide the following  
17 exemption amounts in lieu of those contained therein:

18 (A) Fifty-seven thousand two hundred sixty dollars (\$57,260)  
19 in the case of either of the following:

20 (i) A joint return.

21 (ii) A surviving spouse.

22 (B) Forty-two thousand nine hundred forty-five dollars (\$42,945)  
23 in the case of an individual who is both of the following:

24 (i) Not a married individual.

25 (ii) Not a surviving spouse.

26 (C) Twenty-eight thousand six hundred thirty dollars (\$28,630)  
27 in the case of either of the following:

28 (i) A married individual who files a separate return.

29 (ii) An estate or trust.

30 (6) For taxable years beginning on or after January 1, 1998,  
31 Section 55(d)(3) of the Internal Revenue Code, relating to the  
32 phaseout of exemption amount for taxpayers other than  
33 corporations is modified, for purposes of this part, to provide the  
34 following phaseout of exemption amounts in lieu of those contained  
35 therein:

36 (A) Two hundred fourteen thousand seven hundred twenty-five  
37 dollars (\$214,725) in the case of a taxpayer described in  
38 subparagraph (A) of paragraph (5).

1 (B) One hundred sixty-one thousand forty-four dollars  
2 (\$161,044) in the case of a taxpayer described in subparagraph  
3 (B) of paragraph (5).

4 (C) One hundred seven thousand three hundred sixty-two dollars  
5 (\$107,362) in the case of a taxpayer described in subparagraph  
6 (C) of paragraph (5).

7 (7) For each taxable year beginning on or after January 1, 1999,  
8 the Franchise Tax Board shall recompute the exemption amounts  
9 prescribed in paragraph (5) and the phaseout of exemption amounts  
10 prescribed in paragraph (6). Those computations shall be made as  
11 follows:

12 (A) ~~The California~~ Department of Industrial Relations shall  
13 transmit annually to the Franchise Tax Board the percentage change  
14 in the California Consumer Price Index for all items from June of  
15 the prior calendar year to June of the current calendar year, no  
16 later than August 1 of the current calendar year.

17 (B) The Franchise Tax Board shall do both of the following:

18 (i) Compute an inflation adjustment factor by adding 100 percent  
19 to the percentage change figure that is furnished pursuant to  
20 subparagraph (A) and dividing the result by 100.

21 (ii) Multiply the preceding taxable year exemption amounts and  
22 the phaseout of exemption amounts by the inflation adjustment  
23 factor determined in clause (i) and round off the resulting products  
24 to the nearest one dollar (\$1).

25 (c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as  
26 in effect on January 1, 1997, relating to installment sales of certain  
27 property, shall not apply to payments received in taxable years  
28 beginning on or after January 1, 1997, with respect to dispositions  
29 occurring in taxable years beginning after December 31, 1987.

30 (B) This paragraph shall not apply to taxable years beginning  
31 on or after January 1, 1998.

32 (2) Section 56(b)(1)(E) of the Internal Revenue Code, relating  
33 to standard deduction and deduction for personal exemptions not  
34 allowed, is modified, for purposes of this part, to deny the standard  
35 deduction allowed by Section 17073.5.

36 (3) Section 56(b)(3) of the Internal Revenue Code, relating to  
37 treatment of incentive stock options, shall be modified to  
38 additionally provide the following:

1 (A) Section 421 of the Internal Revenue Code shall not apply  
2 to the transfer of stock acquired pursuant to the exercise of a  
3 California qualified stock option under Section 17502.

4 (B) Section 422(c)(2) of the Internal Revenue Code shall apply  
5 in any case where the disposition and inclusion of a California  
6 qualified stock option for purposes of this chapter are within the  
7 same taxable year and that section shall not apply in any other  
8 case.

9 (C) The adjusted basis of any stock acquired by the exercise of  
10 a California qualified stock option shall be determined on the basis  
11 of the treatment prescribed by this paragraph.

12 (d) The provisions of Section 57(a)(5) of the Internal Revenue  
13 Code, relating to tax-exempt interest shall not apply.

14 (e) Section 57(a) of the Internal Revenue Code, relating to items  
15 of tax preference, is modified to include as an item of tax  
16 preference an amount equal to one-half of the amount excluded  
17 from gross income for the taxable year under Section 18152.5.

18 (f) The provisions of Section 59(a) of the Internal Revenue  
19 Code, relating to the alternative minimum tax foreign tax credit,  
20 shall not apply.

21 *SEC. 4. This act provides for a tax levy within the meaning of*  
22 *Article IV of the Constitution and shall go into immediate effect.*

23 ~~SECTION 1. Section 6390 of the Revenue and Taxation Code~~  
24 ~~is amended to read:~~

25 ~~6390. There are exempted from the computation of the amount~~  
26 ~~of the sales tax the rentals payable under a lease of tangible~~  
27 ~~personal property in either of the following cases:~~

28 ~~(a) When the rentals are required to be included in the measure~~  
29 ~~of the use tax.~~

30 ~~(b) When the property is situated outside this state.~~